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09/848,430

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Jeffrey Thomas Kreulen

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07/11/2008

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SUITE 200  
VIENNA, VA 22182-3817

EXAMINER

RIES, LAURIE ANNE

ART UNIT

PAPER NUMBER

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MAIL DATE

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* JEFFREY THOMAS KREULEN  
and WILLIAM SCOTT SPANGLER

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Appeal 2007-0429  
Application 09/848,430  
Technology Center 2100

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Mailed: July 11, 2008

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Before DALE M. SHAW, *Chief Appeals Administrator*  
SHAW, *Chief Appeals Administrator*

ORDER DENYING SECOND REQUEST FOR REHEARING  
STATEMENT OF FACTS

On December 5, 2006, the Board of Patent Appeals and Interferences (hereinafter Board) mailed a Docketing Notice to Appellants. The Docketing Notice assigned the Appeal Number of 2007-0429 to the

Application, and noted the Appeal Brief filed June 14, 2006 and the Reply Brief of April 27, 2006.

On June 8, 2007 the Board rendered a Decision, reversing the rejection of claims 1, 5, 9, 13, 15, and 17-24 under 35 U.S.C. §103 for obviousness over Pirolli in view of Call, and the rejection of claims 2, 6, 10, 14, and 16 under 35 U.S.C. §103 for obviousness over Pirolli in view of Call and further in view of Cohen. The Board also entered a new ground of rejection, rejecting claims 1, 5, 9, 13, 15, 18, and 20-22 under 35 U.S.C. §102(e) for anticipation by Call.

On July 9, 2007, Appellants filed a Request for Rehearing under 37 C.F.R. §41.52.

On March 21, 2008, the Board mailed a Decision on Request for Rehearing. The decision denied Appellants' Request for Rehearing.

On April 11, 2008, Appellants filed a Paper entitled "Appellants' Second Response to Board's New Rejection."

## DISCUSSION

The Paper filed on April 11, 2008 is in effect a second Request for Rehearing. 37 C.F.R. §41.52 is quite explicit in stating that Appellant may file a single request for rehearing. In particular, 37 C.F.R. §41.52 states:

No request for rehearing from a decision on rehearing will be permitted, unless the rehearing decision so modified the original decision as to become, in effect, a new decision, and the Board states that a second request for rehearing would be permitted.

As can be seen from the Decision on Request for Rehearing, the Board did not authorize a second request for rehearing. Thus, Appellants' response of April 11, 2008 is improper, and cannot be considered.

#### DECISION

Accordingly, it is

ORDERED that Appellants' second request for rehearing is improper and will not be considered. The application is being returned to the examiner for disposition. If there are any questions pertaining to this order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

Appeal 2007-0429  
Application 09/848,430

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